FEB 0 5 2003

PTO/SB/29(10-00) Approved for use through 10/31/2002. OMB 0651 0032

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# CONTINUED PROSECUTION APPLICATION (CPA)

CHECK BOX, if applicable Submit an original, and a duplicate for fee processing DUPLICATE (Only for Continuation or Divisional applications under 37 CFR 1.53(d) Attorney Docket No. 28724/35321 Address to: of Prior Application **Box CPA** First Named Inventor Mark E. Gardiner **Commissioner for Patents** Examiner Name Not Yet Assigned Washington, DC 20231 Group Art Unit Not Yet Assigned Express Mail Label No. EU424132877US-1 This is a request for a | x | continuation or divisional application under 37 CFR 1.53(d) (continued prosecution application (CPA)) of prior application number 09/415,471 filed on October 8, 1999 , entitled OPTICAL ELEMENT HAVING PROGRAMMED OPTICAL STRUCTURES NOTES FILING QUALIFICATIONS: The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51 (b), or (2) the national stage of an international application in compliance with 35 U.S.C 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000). C-I-P NOT PERMITTED: A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53 (d), but must be filed under 37 CFR 1.53(b). EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned. ACCESS TO PRIOR APPLICATION: The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

1.	Enter the unentered amendment previously filed on under 37 CFR 1.116 in the prior nonprovisional application.
2.	X A preliminary amendment is enclosed.
3.	This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4)
	a. DELETE the following inventor(s) named in the prior nonprovisional application:
	b. The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4.	
5.	Information Disclosure Statement (IDS) is enclosed:
	a. X PTO-1449
	b. X Copies of IDS Citations

02/07/2003 SFELEKE1 00000107 09415471

01 FC:1006 02 FC:1201 750.00 OP 84.00 OP

concerning, the other application or applications in the file jacket.

PTO/SB/29(10-00)

Approved for use through 10/31/2002. OMB 0651-0032

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CLAIM	(1) FOR	(2) NUMBE	R FILED	(3) NUMBER EXTRA	(4) RATE	-	(5) CALCULATIONS		
	TOTAL CLAIMS (37 CFR 1.16(c) or (j))	20 -	20* =		x \$	=	\$ 0.00		
	INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))	4 -	3** =	1	×\$ 84.00	=	84.00		
	MULTIPLE DEPENDENT CLAIMS (			CFR 1.16(d))	+\$ =				
					BASIC FEE (37 CFR 1.16)		750.00		
			Total	of above Calculatio	ns =	834.00			
	Reduction by 50% for filing by small entity (Note 37 CFR 1.27).								
	* Reissue claims in e. ** Reissue independe	xcess of 20 and c nt claims over or	over original pa iginal patent.	tent.	TOTA	AL =	\$ 834.00		
6. S	mall entity status:	Applicant cl	aims small	entity status. See 3	7 CFR 1.27.				
7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 13-2855 :									
a. [	Fees required ur	nder 37 CFR	1.16.						
b. х	Fees required ur	nder 37 CFR	1.17.						
c. Fees required under 37 CFR 1.18.									
8. x A	check in the amou	int of \$	834.00	is enclosed.					
9. Pa	ayment by credit c	ard. Form F	TO-2038 i	s attached.					
10. A <sub>I</sub>	pplicant requests s	suspension o	of action un	der 37 CFR 1.103(b	) for a period of	f	months		
(n	ot to exceed 3 mo	nths) and th	e fee unde	r 37 CFR 1.17(i) is e	nclosed.				
لححا	ew Attorney Docke	•				_			
	1			PA <u>uniess</u> a new Attorney Doc	cket Number has been j	provided	d herein.]		
	Receipt For Fac								
b. x	j	Postcard (Sr	lould be sp	ecifically itemized, S	See MPEP 503)				
13 Ot	her:								
NOTE:	The prior applicat a new correspond			ess will carry over to thi	s CPA UNLESS				
				ESPONDENCE ADDRES	s				
. X C	ustomer Number or Bar Co	de Label		04743	or	New co	orrespondence address below		
Name	Anthony G. Sitke	0							
Address	233 South Wack Suite 6300	er Drive							
City	Chicago		State	IL	Zip Code (	60606			
Country	USA	<del></del>	Telephone	1(0.12)	Fax	(312	2) 474-0448		
15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED									
ł	Name (Print/Type)		Anthony	Anthony G. Sitko					
Signature									
-	Registration No. (Al	torney/Agent)	36,278						
Date February 5, 2003									
I hereby certify that this correspondence and every document referred to herein are being deposited with the U.S. Postal Service as Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail, Airbill No. EU424132877US, in an envelope additable to the Express Mail No. EU42413287TUS, in an envelope additable to the Express Mail No. EU42413287TUS, in an envelope additable to the Express Mail No. EU42413287TUS AIRBING MAIL NO. EU42413287TUS									
20231, on the date shown below.									
Dated: Febr	uary 5, 2003	Signa	ature: <u>KI O</u>	hauf /_	(Rich	nard Zi	immermann)		

PTO/SB/17 (01-03)

Unds The Paperwork Reduction Act of 1995, no persons are requ	ired to	respond (	to a coll	ection c	Approv of information	on unless it dis	plays a valid C	MB col	ntrol number
aty	Complete if Known								
FEE TRANSMITTAL	Application Number			Continuation of Serial No. 09/415,471					
for FY 2003		Filing Date			Herewith				
Patent fees are subject to annual revision.						Mark E. Gardine			
			iner Na				ssigned		٠, ٠,
Applicant claims small entity status. See 37 CFR 1.27		Group	Art Ur	nit		2877	<u> </u>	ان) ب	A
TOTAL AMOUNT OF PAYMENT (\$) 834.00		Attorn	ey Doo	ket No	э.	28724/35	321 🤥	<del></del>	$\Box$
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Number 13-2833	Code	(\$)	Code	(\$)		Fee Design	ription 6		Fee Paid
Deposit Account MARSHALL, GERSTEIN &	1051	130	2051	65	Surcharge	- late filing fe	e or oath		
Name BORUN The Commissioner is hereby authorized to: (check all that apply)	1052	50	2052	25	Surcharge sheet.	- late provision	onal filing fee o	r cover	
Charge fee(s) indicated below X Credit any overpayments	1053	130	1053	130		sh specificatio	n		
Charge any additional fee(s) during the pendency of this	1812	2,520	1812	2,520	For filing a	request for ex p	parte reexamina	tion	
application  Charge fee(s) indicated below, except for the filing fee	1804	920*	1804	920*		g publication of			
to the above-identified deposit account.	1805	1,840*	1805	1,840*	Requestin	g publication o	of SIR after		
FEE CALCULATION	1251	110	2251	55	Extension	for reply within	n first month		
1. BASIC FILING FEE	1252	410	2252	205	Extension	for reply within	n second mont	h	
Large Entity Small Entity	1253	930	2253	465	Extension	for reply within	n third month		
Fee Fee Fee Fee <u>Fee Description</u> Fee Paid	1254	1,450	2254	725	Extension	for reply within	n fourth month		
1001 750 2001 375 Utility filing fee	1255	1,970	2255	985	Extension	for reply within	n fifth month		
1002 330 2002 165 Design filing fee	1401	320	2401	160	Notice of A	Appeal			
1003 520 2003 260 Plant filing fee	1402	320	2402	160	_	ef in support of			
1004 750 2004 375 Reissue filing fee 1005 160 2005 80 Provisional filing fee	1403	280	2403	140	•	of oral hearing		dina	
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Extra Fee from Claims below Fee Paid	1502	470	2502	235	Design iss	ue fee			
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1202 18 2202 9 Claims in excess of 20 1201 84 2201 42 Independent claims in excess of 3	1809	750	2809	375	(37 CFR 1		ililai rejection		
1203 280 2203 140 Multiple dependent claim, if not paid	1810	750	2810	375		additional invei (37CFR 1.129			
1204 84 2204 42 ** Reissue independent claims	1801	750	2801	375			examination (R	CE)	
over original patent  1205 18 2205 9 ** Reissue claims in excess of 20	1802	900	1802	900		or expedited e: n application	xamination		·
and over original patent	Other	ا fee (spec	cify)	1006	_	g fee - Utility (	(CPA)		750.00
SUBTOTAL (2) (\$) 84.00	*Redi	uced by E	Basic Fil	ing Fee	Paid	SUBTO	TAL (3) (\$)		750.00
**or number previously paid, if greater; For Reissues, see above				-			.,		
SUBMITTED BY						Complete	(if applicable)		
Name (Print/Type) Anthony G. Sitko		ration No ey/Agent)		,278		Telephone	(312) 474	-6602	
Signature		)				Date	February	5, 200	03
							<u>.                                    </u>		

I hereby certify that this correspondence in an envelope addressed to: Box CPA,	is being deposited with the U.S. Posta Commissioner for Peterlis, Washington	Service as Express Mail, Airbill No. In. DC 20231, on the date shown belo	EU424132877US,
Bata 51 5 0000	Section 7	(Dishard 7)	

Dated: February 5, 2003

Signature: XICham

(Richard Zimmermann)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EU424132877US, in an envelope addressed to: Box Non-Fee Amendment/Commissioner for Patents, Washington, DC 20231, on the date shown pelow.

Dated: February 5, 2003

ignature: 7 ) Chaul

FEB 0 5 2003

Docket No.: 28724/35321

(PATENT),

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Mark E. Gardiner et al.

Application No.: Continuation of Serial No. 09/415,471

Group Art Unit: Not Yet Assigned

Filed: Herewith

Examiner: Not Yet Assigned

For: OPTICAL ELEMENT HAVING

PROGRAMMED OPTICAL STRUCTURES

1

ECEIVEL

FIRST PRELIMINARY AMENDMENT

**Box Non-Fee Amendment** 

Commissioner for Patents Washington, DC 20231

Dear Sir:

Prior to examination of the above-referenced application, please enter the following amendment:

#### In the Specification

Prior to the first line of the Specification, please insert the following paragraph.

# **Cross-Reference to Related Applications**

This application is a continuation application of United States Application Serial No. 09/415,471, now abandoned, the disclosure of which is hereby expressly incorporated herein by reference.

### In the Claims

Please cancel claims 1-27, without prejudice.

Please add new claims 28-47 as follows:

B